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Item 4 of the provisional agenda

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH
WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Written statement submitted by the International Fellowship of Reconciliation, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[7 June 1993]

THE FUNDAMENTAL RIGHT OF FREEDOM OF OPINION AND EXPRESSION

1. The International Fellowship of Reconciliation wishes to raise a matter concerning the fundamental right of freedom of opinion and expression - a cornerstone for the whole edifice of the International Bill of Rights - which IFOR has frequently addressed at the Commission on Human Rights and at the Sub-Commission.

2. In three otherwise constructive and useful reports on the "Right of freedom of opinion and expression" (E/CN.4/Sub.2/1990/11, E/CN.4/Sub.2/1991/9, E/CN.4/Sub.2/1992/9) prepared for the Sub-Commission by the Special Rapporteurs, Mr. Louis Joinet and Mr. Danilo Türk, there is no reference whatsoever to the greatest freedom-of-opinion-and-expression issue of our time: The Rushdie Affair.

3. On 21 August 1992, following IFOR's further appeal (see E/CN.4/Sub.2/1992/SR.27), the expert from the United Kingdom of Great Britain and Northern Ireland, Mrs. Clair Palley, declared that it was time for the Sub-Commission to take a clear stand on this question. These were her exact words:

4. "Unfortunately, I do not find that stand in Mr. Türks and Mr. Joinet's reports. The reports, although mentioning sanctions against persons who express their opinions, and also mentioning restrictions to protect public morality, say nothing about fatwas and laws imposing the death penalty for heresy ... This is not a century - and certainly the twenty-first century is not one - in which the death penalty should exist for heresy. I hope the Sub-Commission will, as a body, make it clear that both fatwas and the death penalty for heresy are themselves gross violations of human rights." (United Nations-recorded verbatim transcription.)

5. A firm declaration by a United Nations body would certainly have given hope to millions of Muslims worldwide, who do not accept this scandalous usurpation of their spiritual values, yet dare not speak out publicly on this issue for fear of being branded as heretics.

6. An earlier indirect reference to this grave "affair" appeared in Sub-Commission resolution 1990/8, following the assassination of Professor Kazem Rajavi at Coppet near Geneva. It: "Condemns strongly the assassination of Professor Kazem Rajavi, as well as every assassination or threat of assassination of political dissidents or other persons wherever they live, including in their own country".

7. It is regrettable, that during four years, neither the Commission nor the Sub-Commission passed a resolution condemning the "infamous and outrageous" fatwa itself and the subsequent, reiterated, Iranian public incitations to murder British writer Salman Rushdie.

8. This situation was a direct consequence of the restraint practised by all United Nations bodies, especially following the Iranian Government's reaction to a 3 March 1989 cable from the Centre for Human Rights, in which the definitive position of the Islamic Republic of Iran was clearly stated: "The Special Rapporteur's intervention in the case of Salman Rushdie's criminal offence against Islam and the World Muslim community was outside his mandate and thus unwarranted." (E/CN.4/1990/22, para. 254).

9. The Government of the Islamic Republic of Iran went on to justify its position by referring to the declaration adopted at the Eighteenth Meeting of Foreign Ministers of the Organization of the Islamic Conference (OIC) held in Riyadh, Saudi Arabia, from 13 to 16 March 1989, which "had proclaimed, in unambiguous terms, the apostasy of Salman Rushdie."

10. The Foreign Ministers of the 44 Muslim States represented at the Eighteenth OIC Meeting promulgated a ban on The Satanic Verses, but did not comment on the fatwa that sentenced its author and publishers to death. However, they did declare that Salman Rushdie was an apostate. Since traditional Islamic law - the shari'a - requires that the punishment (hadd)

for an apostate (ridda) should be death - one of the three cases where a Muslim's blood may be legally shed - did that declaration signify their acceptance of the fatwa?

11. The international community is entitled to an unequivocal clarification on this precise point from the most authoritative Islamic bodies as to whether such rulings are binding today, especially after the Ayatollah Ali Khamanei's 14 February 1993 confirmation that the death edict must be carried out by Muslims whatever the consequences.

12. During the consideration of the second periodic report of the Islamic Republic of Iran, the Human Rights Committee at its forty-sixth session raised the Rushdie case. On 30 October 1992, three of its experts - from France, the United Kingdom and the Russian Federation - questioned the Iranian representative concerning the incompatibility between the International Covenant on Civil and Political Rights and the unrevoked 1989 fatwa proclaimed by the late Ayatollah Khomeini.

13. A special envoy of the Judicature of the Islamic Republic of Iran, Mr. Hussein Mehrpour, referred in his statement to shared commitments for "the respect of human beings"; and Iranian Ambassador Sirous Nasseri "stated that Iran felt that the Covenant and the Universal Declaration on Human Rights were compatible with Islam." (United Nations Press Release HR/3215.)

14. IFOR again raised this matter in a letter dated 4 November 1992 to Professor Fausto Pocar, Chairman of the Human Rights Committee, two days after the personal representative of Iran's spiritual leader, Ali Khamanei, reiterated his appeal to "all Muslims of the world to unite and make an effort to end the life of the apostate Rushdie". The Ayatollah Hassan Sana'i - also the head of the 15th Khordad Spiritual-Charitable Foundation that had offered, and frequently increased, the original $1 million bounty for any assassin of Rushdie - later menaced to execute anyone who "supported" Salman Rushdie. (Interview in the Iranian newspaper Jomhouri-Eslami, 14 February 1993, AFP)

15. Notwithstanding this assassination threat, the Human Rights Committee continued the consideration of Iran's periodic report on 7 April at its forty-seventh session in New York. Mr. Hussein Mehpour said the fatwa against Mr. Rushdie had been issued by the late Imam Khomeini in his capacity as spiritual, not political, leader and he had no authority to discuss the issue further. The expert from Cyprus stated that he was not satisfied with the explanation of the fatwa. The Committee will continue its review of Iran's second periodic report at its July 1993 session at Geneva. (United Nations Press Release HR/CT/264)

16. Earlier, on 10 March 1993, in its resolution 1993/62, paragraph 5, the Commission on Human Rights expressed: "its grave concern that there are continuing threats to the life of a citizen of another State which appear to have the support of the Government of the Islamic Republic of Iran". The explicit mention of Salman Rushdie was omitted.

17. In an interview published in Time International on 24 May 1993, the President of the Islamic Republic of Iran, Mr. Ali Akbar Hashemi Rafsanjani, referred to the fatwa against Salman Rushdie:

> "This is prescribed by an Islamic law that has been in existence for a thousand years. Even if the Imam (Ayatollah Khomeini) had not pronounced a fatwa it could have been traced in the books of great Islamic scholars. It is written that anyone cursing the prophet is condemned to death."

18. In a long article in The New York Times, republished on 9 February in The International Herald Tribune, ("Four years on, they're still trying to kill me"), Salman Rushdie declared: "The great issues here are freedom of expression, and national sovereignty, too. Also, the case is just the best known of all the cases of writers and intellectuals, progressives and dissidents being harassed, jailed, banned and murdered throughout the Muslim world. (...) The crisis will not be over until Iran's threats of State-sponsored international terrorism are formally and unequivocally withdrawn."

19. Montesquieu, the first social scientist, offered a universal dictum, which is as apposite today with regard to the Iranian position on Salman Rushdie as it was when used by him to criticize the dominant and dominating Roman Catholic church in eighteenth century France: "Le mal est venu de cette idée qu'il faut venger la divinité; mais il faut faire honorer la divinité et ne la venger jamais!" (De l'Esprit des Lois, 1748, XII,4) ["Evil came from this idea that one must avenge the divinity; but one should rather give honour to the divinity and never seek vengeance in God's name."] This is surely the profound feeling of all "true believers" and humanists alike, who would do well to meditate Montesquieu's axiom. We who seek universal standards for fundamental human rights must make it clear that nothing will be gained through threats and intimidation against those who uphold these rights.

20. IFOR looks to the Sub-Commission to relight the eternal flame of freedom of opinion and expression, by condemning explicitly the "infamous and outrageous" endorsement of transnational intellectual terrorism. A resolute declaration in this respect would assure the international community that the precious seed of freedom of opinion and expression will not be allowed to die, but may continue to grow and prosper throughout the world. This message should be heard loud and clear at this session of the Sub-Commission.